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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,978	12/08/2005	Kan'ichi Sato	04244/LH	7660

1933 7590 12/31/2007  
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC  
220 Fifth Avenue  
16TH Floor  
NEW YORK, NY 10001-7708

EXAMINER

CHENEVERT, PAUL A

ART UNIT	PAPER NUMBER
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3612

MAIL DATE	DELIVERY MODE
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12/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/559,978	<b>Applicant(s)</b> SATO, KAN'ICHI	
	<b>Examiner</b> Paul A. Chenevert	<b>Art Unit</b> 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 17-27 and 29-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37-39 is/are allowed.
- 6) ☒ Claim(s) 17, 24, 25, 27 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 18-23, 26, 29, 30 and 34-36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. PCT/JP04/008275.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01NOV07 has been entered.

### ***Election/Restrictions***

2. Applicant's election without traverse of claims 17-39 and the canceling of claims 40 & 41 in the reply filed on 01NOV07 is acknowledged.

### ***Double Patenting***

3. Applicant is advised that should claim 18 be found allowable, claim 29 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 17 & 31-33 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Iwasa et al. (US 5,744,763 A; 28APR98).

Iwasa et al. disclose an interior member *capable* for a cab of a work vehicle, comprising: a foundation body panel (upper portion of the outer covering layer 12) which has a first side and a second side, and which comprises a plurality of ribs (72) at the second side, at least one space (51) being defined by the ribs at the second side of the foundation body panel; an outer layer material (upper portion of the outer covering layer 12) provided at the first side of the foundation body panel; a first sound absorbing member comprising a sound absorbing material (10) provided between the outer layer material and the first side of the foundation body panel; and a plate (vehicle hood panel 14) provided at the second side of the foundation body panel, wherein the foundation body panel is fastened to the plate. The plate is not disclosed as metal, but vehicle hood panels are known to be manufactured from sheet metal panels. In regards to claim 31, the foundation body panel is adapted to be coupled to a body of the cab by at least one fastener, as is normally done in the mounting of a vehicle hood panel to a body of a cab. In regards to claim 32, the plate is also adapted to be coupled to a body of the cab by at least one fastener, as is normally done in the mounting of a vehicle hood panel to a body of a cab.

In regards to claim 33, the interior member, as described above, is employed to sound-proof an engine compartment of a vehicle, but is capable of forming a wall member for a cab of a work vehicle.

6. Claims 24 & 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwasa et al. in view of obvious common knowledge.

Iwasa et al. disclose a foundation body panel formed by a resin and all other claim limitations except for the resin being made from polyurethane. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a polyurethane resin, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious mechanical expedient choice. In re Leshin, 125 USPQ 416.

The Applicant's response on 01NOV07 does not address the Examiner's Official Notice of employing polyurethane submitted in the Office action filed 01AUG07. This appears to constitute acquiescence that the feature was well known in the art at the time of the invention.

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iwasa et al. in view of obvious common knowledge.

Iwasa et al. disclose the claimed invention except for the first sound-absorbing member having a thickness of 5mm to 20 mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the first sound-absorbing member to a thickness of 5mm to 20mm, since it has been held to be within the general skill of a worker in the art to select a thickness on the basis of its suitability for the intended use as a matter of obvious mechanical expedient choice. In re Leshin, 125 USPQ 416.

The Applicant's response on 01NOV07 does not address the Examiner's Official Notice of thickness selection submitted in the Office action filed 01AUG07. This appears to constitute acquiescence that the feature was well known in the art at the time of the invention.

***Response to Arguments***

8. Applicant's arguments, see page 13, line 22, filed 01NOV07, with respect to the rejection(s) of claim(s) 17 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Iwasa et al.

***Allowable Subject Matter***

9. Claims 37-39 are allowed.

10. The following is an examiner's statement of reasons for allowance: the prior art does not show or make obvious Applicant's outer and inner metal plate.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

11. Claims 18-23, 26, 30 & 34-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not show or make obvious Applicant's second sound absorbing member (claims 18, 30 & 34), crossed ribs (claim 19), wire conduit (claim 21), air conditioning duct (claim 22), exterior layer (claim 35).

***Conclusion***

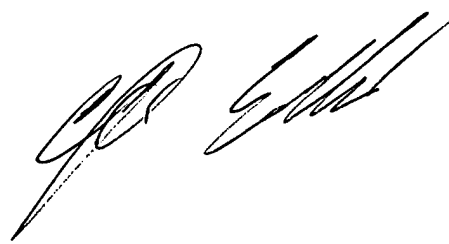
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Chenevert whose telephone number is 571-272-6657. The examiner can normally be reached on Mon-Fri (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul A. Chenevert  
Examiner  
Art Unit 3612

PAC  
20DEC07

 PAC

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